



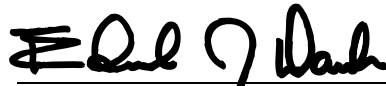
1 Risley, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). An  
2 evidentiary hearing does not appear necessary at this time, and there are no  
3 exceptional circumstances to warrant appointment of counsel. Accordingly,  
4 Petitioner's motion is DENIED. This denial is without prejudice to the Court's sua  
5 sponte reconsideration should the Court later find an evidentiary hearing necessary  
6 following consideration of the merits of Petitioner's claims.

7 Petitioner's motion for an evidentiary hearing, (Docket No. 4), is DENIED as  
8 premature. The Court will sua sponte consider whether an evidentiary hearing is  
9 appropriate after an initial review of the petition.

10 Petitioner must pay the \$5.00 filing fee **within thirty (30) days** of the date of  
11 this order or face dismissal of this action for failure to pay the filing fee.

12 This order terminates Docket Nos. 2, 3 and 4.

13  
14 DATED: 10/5/2012



EDWARD J. DAVILA  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

GABRIEL RUDY CORTEZ,  
Petitioner,

Case Number: CV12-03819 EJD

**CERTIFICATE OF SERVICE**

v.

GREG LEWIS, Warden,  
Respondent.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 10/9/2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Gabriel Rudy Cortez J-76501  
Pelican Bay State Prison  
P. O. Box 7500  
Crescent City, Ca 95532

Dated: 10/9/2012

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk